

GENERAL COUNSEL'S REPORT

May 22, 2013

D. Agency Determination

a. MUA Medical Clinic of Knoxville, LLC, CN0811-112A and MUA of Middle Tennessee, LLC, CN1009-054

Agency staff's request for Agency Determination as to whether Manipulation Under Joint Anesthesia (MUJA) is permissible under a CON limited to the provision of Manipulation Under Anesthesia (MUA) services, which are manual surgical procedures with no operative surgical procedures to be performed.

DEFERRED TO THE AUGUST MEETING



State of Tennessee

Health Services and Development Agency

Frost Building, 3rd Floor, 161 Rosa L. Parks Boulevard, Nashville, TN 37243
www.tn.gov/hsda Phone: 615-741-2364/Fax: 615-741-9884

May 3, 2013

Mr. E. Graham Baker, Jr.
Weeks & Anderson
2021 Richard Jones Road, Suite 350
Nashville, Tennessee 37215-2874

RE: MUA Medical Clinic of Knoxville, LLC-CN0811-112A
MUA of Middle Tennessee, LLC-CN1009-045A

Dear Mr. Baker,

I am always most willing to meet with anyone regarding any issue related to the certificate of need program. I am happy to discuss the Agency determination process and receive any information you want included, but absolutely will not make a decision related to whether MUJA is within the scope of the limited CONs granted to the referenced applicants. That determination is in the Agency's hands now, which anything controversial should be. I erred by not placing this on the General Counsel's Report after receiving your October 24, 2011 inquiry, since MUA is new to TN and the Agency should be involved when new ground is covered, especially when it concerns what they did and did not approve.

Questions sometimes arise about what something is or what can or cannot be done under a CON with a condition/limitation. You raised the issue in your October 24, 2011 letter and we have a duty to try to get the right answer. Your statements about Dr. Browder and TMA do not make the questions they have raised and our duty to answer them disappear. Agency determinations are nothing new, which is why the rules address them. I am so sorry that you feel you are being compelled to appear before the Agency. This will not be a "hearing," but an opportunity for your clients and all concerned to present all of the facts to the Agency in a public meeting so the Agency can make an informed decision as to what it approved and what it did not.

You will have every opportunity to explain to the Agency how the injection of steroids to joints is *"the antithesis of interventional pain management"* and how *"at no time are interventional pain management medications utilized in either MUA or MUJA."* This is confusing to me, because as I understand interventional pain management, it includes a number of procedures whereby an anesthetic or anti-inflammatory medication such as a steroid is injected into the body via different types of injections (including but not limited to epidural, joint, facet or trigger point) as well as other types of procedures including but not limited to nerve blocks and intrathecal pumps being implanted. I am

confused because your client's Nashville facility was identified as providing epidural steroid injections in one of *The Tennessean* articles about the meningitis outbreak. So if a steroid is not an interventional pain medication and an injection into the epidural space of the spine is not a type of interventional pain management as you claim you will have the opportunity to share why that is so.

I certainly do not recall stating *"if only steroids were being injected in the MUJA process, such procedures would not be considered interventional pain management."* I do not recall exactly what I might have said that left that impression but certainly I misspoke if I said that. Both Mr. Christoffersen and I were answering several different questions from several different people at the same time at the March 12, 2013 meeting your clients requested at Legislative Plaza. I can understand how that might have helped create confusion as to what was being said.

Interventional pain management services should not be confused with pain clinic certification. Pain clinics are statutorily defined as a privately-owned facility in which certain licensed professionals provide or dispense opioids, benzodiazepines, barbiturates, or carisoprodol, but not suboxone, for more than ninety (90) days in a twelve-month period. I have never indicated that either of the referenced entities should be certified as pain clinics.

The facts, at least as I understand them now, have certainly changed from the time the referenced applications were heard. MUJA was not addressed in either application, despite the detailed education you provided regarding MUA. After reading your request for staff determination, we believed that the MUJA procedures would occur in conjunction with the MUA process detailed in the applications and not in lieu of it. Mr. Christoffersen and I certainly thought that we understood that this would be an ancillary procedure. I believe the Agency has now received five MUA applications and has heard four of them. Staff was familiar with the three successive day MUA process detailed in those applications, including the application you filed for an unrelated party that was scheduled to be heard in May. Dr. Lensgraf indicated during our meeting in March that MUA is no longer a 3-day procedure so we are learning that the facts continue to change regarding MUA and I would suppose MUJA as well.

Information from Dr. Browder, TMA, and TDH have added to the facts and given a new perspective on the facts you submitted. We will put it all before the Agency and let them decide.

Your October 24, 2011 letter indicated that the MUJA portion of the MUA procedure was not specifically mentioned *"because you believed it to be a generally-accepted part of the global MUA umbrella of medication-assisted manipulation"*; yet now you are saying that joint injections were used sparingly at the time the referenced applications were approved and licensed and that *"MUA practice has evolved over the years to include MUJA."* Please understand my confusion.

The most recent MUA application you filed for another party in December 2012 caused more confusion. It included a list of CPT codes clearly identified under the heading of *MUJA Codes*. You indicated that the applicant would charge a \$15,000 global fee just as both of the referenced applicants did but never did identify how many MUA procedures vs. MUJA procedures would be performed. When you decided to take MUJA out of that application, rather than breakdown the number of procedures estimated to be MUJA, you also removed the MUJA codes. No MUJA codes were identified at all in either of the

referenced applications and we did not ask any questions about them because MUJA was not discussed. I believe it was Dr. Lensgraf who said during our March meeting that only MUA CPT Codes are submitted for billing, and provided us with a list of MUA Codes that did not include any of the MUJA Codes you detailed in the December application. It has been confusing trying to reconcile how different applicants, same consultant, have such a different take on how the same procedures must be billed, and how both could be correct.

Your indication that we "may have been misled by a combination of statements/responses by/to/from the Department of Health, the Board of Medical Examiners, and inaccurate and possibly inappropriate input from the Tennessee Medical Association" deserves examination in public by the Agency, where you will be provided the opportunity to explain and they can respond.

I apologize for any confusion I may have caused by referring to MUA as a chiropractic procedure in my December 19, 2012 e-mail to TDH Assistant Commissioner Michelle Long. The question is not whether MUA is a medical or chiropractic procedure. The question is whether MUJA exceeds the scope of a certificate of need that was limited to the manipulation procedures described in both of the referenced applications. My original discussion with Assistant Commissioner Long prior to the e-mail was whether a joint injection exceeded the scope of a manual procedure. I asked that because MUA was described as a manual procedure and not a surgical procedure in both CON applications. As you recall, we had a discussion with the Department of Health before any MUA applications were ever filed to see if MUA facilities could even be licensed under the classification of an Ambulatory Surgical Treatment Center. It was determined that because TDH rules referred to "manual or surgical" procedures that these facilities could be licensed as such. The applications confirmed that only manual manipulations would occur. Since the Department of Health is the licensing entity for health care facilities that fall within their jurisdiction and is responsible for the enforcement of any condition placed upon a certificate of need as such, Assistant Commissioner Long asked Dr. Larry Arnold who is both Medical Director of the Board of Medical Examiners and the Chairman of the Board for Licensing Health Care Facilities, to review the issue.

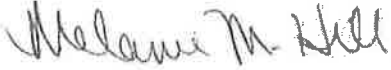
The impression conveyed to everyone at the March 12 meeting and in your recent letter is that Dr. Arnold was merely asked the narrow question of whether MUJA is a chiropractic or surgical procedure. I find it confusing that you could think this to be what happened, since you have been shown that Dr. Arnold was provided all the letters from both sides detailing what is at issue, before he agreed with Dr. Browder and responded that *"MUA was trying to come in through the back door and obtain approval for a new procedure that HSDA was never aware of and never discussed at all."* Dr. Arnold went on to say *"I see no reason why the Center could not apply to HSDA for approval of the new procedure. They would then come back before the Board for arguments from both sides and HSDA would make the decision. I think this is how the system is supposed to work."* His comments are clearly neutral and on point.

In December 2012, you were notified an Agency determination or Declaratory Order could be requested. At the March 12 meeting, you were offered a spot on the Agency's March 27 agenda for a quick resolution, which you declined. Since the Agency had no meeting scheduled for April, I advised everyone present that I was placing the item on the May agenda. We discussed the May date by

telephone within a day or two of the March meeting. Now you want to further delay resolution until August, at the earliest. I am surprised that it has just now been brought to my attention that the May 22 date is a problem. While I would prefer that this matter not be postponed until August, I will grant your request for deferral. Please be sure that everyone is prepared to go forward on August 28.

Let me know if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Melanie M. Hill". The ink is dark and the signature is fluid.

Melanie M. Hill, Executive Director

WEEKS & ANDERSON

An Association of Attorneys

2021 RICHARD JONES ROAD, SUITE 350

NASHVILLE, TENNESSEE 37215-2874

TELEPHONE 615/383-3332

FACSIMILE 615/383-3480

2013 MAY -1 AM 8: 58

KENT M. WEEKS
ROBERT A. ANDERSON

F. B. MURPHY, JR.
E. GRAHAM BAKER, JR.

DIRECT TELEPHONE NUMBER: 615/370-3380

April 29, 2013

Melanie Hill, Executive Director
Health Services and Development Agency
Frost Building, 3rd Floor
161 Rosa L. Parks Boulevard
Nashville, Tennessee 37243

Re: MUA Medical Clinic of Knoxville, LLC, CN0811-112A¹
MUA of Middle Tennessee, LLC, CN1009-045A

Dear Melanie:

In my continuing representation of the referenced projects, I feel compelled to again attempt a resolution of this matter prior to a hearing by the full HSDA Board. Neither my clients nor I feel this issue rises to the level of such a presentation, now scheduled for the May meeting. I am assuming this issue, if taken up, will be a part of the General Counsel's Report at the heel of the agenda.

In addition to the delay of providing needed care by patients, this issue has cost my clients many thousands of dollars in lost revenue, attorney fees and staff expenses, and is further exacerbated by the need and cost of securing experts in the field to travel to Nashville to testify at the hearing. We are having to bring in people from several states, and attempts at coordinating their respective schedules precludes us from being prepared for the May meeting. As the HSDA meets only one day per month and our experts have conflicting schedules, we cannot present our case until the August meeting. Further, my clients have engaged Miller & Martin PLLC as co-counsel, and those attorneys have indicated that they will need additional time to prepare. Please consider this letter a request to delay our presentation, if ultimately required, until the August meeting.

We feel that what was a straight-forward and understandable request for a Staff Determination in October, 2011 has been blown completely out of proportion by influences outside the HSDA staff and members. The response to our original request for a staff determination ended with the following comment: "Should these facts change, this determination would also be subject to change." Since then, nothing has changed. MUJA is part and parcel of MUA, and involves only the injection of steroids – NOT interventional pain medication – into the affected joint of a patient. You stated at our meeting in the Legislative Plaza on March 12, 2013 that if only steroids were being injected in the

¹ Facility name has been changed to Smoky Mountain Ambulatory Surgery Center, LLC

MUJA process, such procedures would not be considered interventional pain management. We agree with you, and fail to understand why we are still being compelled to come before the HSDA.

Further, chiropractic physicians are NOT performing any of these steroid injections at our ASTCs. At no point has any proof been proffered, nor have we suggested, that chiropractic physicians are or should be performing injections. Only licensed medical physicians, physician assistants, and in some cases CRNAs (for anesthesia) perform these injections at our facilities.

Mr. Christoffersen's assertion² that MUJA "...is an interventional pain management procedure, not ancillary to MUA[.]" is simply false. At no time are interventional pain management medications utilized in either MUA or MUJA. We believe he may have been misled by a combination of statements/responses by/to/from the Department of Health, the Board of Medical Examiners, and inaccurate and possibly inappropriate input from the Tennessee Medical Association.

In fact, MUA is a viable, non-medication procedure that reduces chronic pain, improves functional capacity of patients, and reduces narcotic use by patients. MUA/MUJA is the antithesis of interventional pain management.

As we have stated repeatedly³, MUA is not a chiropractic procedure: it is a procedure in which chiropractic physicians participate. MUA is performed by a team of 4 practitioners, including (1) a licensed medical doctor (either M.D. or D.O), (2) a chiropractic physician, (3) an anesthesiologist (or CRNA working under an anesthesiologist), and (4) an RN. At all times since the CONs were approved and these two facilities were ultimately licensed, they have strictly followed these procedures without exception.

If traditional MUA is performed, the patient receives anesthesia (Propofol) from an anesthesiologist or a CRNA working under an anesthesiologist. If joint injections are performed, all steroid injections are administered by a licensed practitioner – not a chiropractic physician.

These two facilities were approved by the HSDA as specialized ASTCs "providing only Manipulation Under Anesthesia Services" Both of these ASTCs then appeared before the Board for Licensing Health Care Facilities, and received appropriate waivers. The facilities were constructed, inspected, and licensed. Both of these ASTCs are Medicare-accredited. In addition, the facility in Knoxville is JCAHO-accredited and TennCare-accredited, and the facility in Nashville is AAAHC-accredited and is currently working with various TennCare MCOs to become TennCare-accredited.

We provided information to the HSDA on February 05, 2013 showing how MUJA is included in Medical Policy Manuals of MCOs regarding MUA. Not only do insurance carriers include joint injections under MUA, they will not reimburse for more traditional MUA unless joint injections have been administered to the patient first. Copies of these Medical Policy Manuals were provided to you.

It is also important to note that, like all health care, the practice of MUA is changing and has changed over the years. When our applications were heard by the HSDA in February, 2009 and December, 2010, respectively, the standard of care for MUA was to place the patient under general anesthesia,

² His Letter of December 27, 2012

³ In both the CON Applications and in consequent letters to the HSDA

perform manipulation, and repeat the process over a three day period. At that time, joint injections were used sparingly (as testified to by Dr. Robert Gordon). Over the last few years, it has been found that joint steroid injections break up scar tissue (adhesions) in patients, and the more traditional MUA (general anesthesia, etc.) may not be necessary⁴. This is one of the reasons why Medical Policy Manuals state that medical providers administer joint steroid injections first. However, the use of joint injections of steroids is still an MUA procedure, and is the preferred method of adhesion and release for patients needing such care.

The information provided to the HSDA by Dr. Joe Browder is clearly a red herring. We believe Dr. Browder is trying to start a fight with chiropractic physicians when no issues exist. And Dr. Larry Arnold's comment that "...joint injections make this a surgical procedure and beyond the scope of practice for Chiropractors[.]" is not on point. We respectfully submit that Dr. Arnold's statement was in response to the question of "whether MUJA is a medical or chiropractic procedure." At no time have my clients stated or inferred that chiropractic physicians should be able to provide injections to patients. In fact, our chiropractic physicians are not even in the room when steroid injections are provided to patients by licensed professionals.

These two facilities were not approved merely to provide a place for chiropractic care. They were approved to provide multi-disciplinary MUA treatment, some of which, such as steroid injections, are performed by licensed physicians in full compliance with all laws and accepted medical standards.

Finally, I am personally offended by Dr. Browder's remark that I was in some fashion misleading the HSDA, or that my request was choreographed in some fashion. I have too much respect for the law, the lawmakers, the CON process itself, the voting members of the HSDA, and the excellent civil servants who staff the HSDA to even consider such a ridiculous action.

Drs. Lensgraf and Benedict and I would like to meet with you at your office to discuss this issue prior to any hearing and with the goal of resolving this fairly to all concerned and without a formal hearing. While we can't prepare and coordinate all of our expert and other testimony until August, we certainly believe that a more informal meeting with you and your staff will help expedite this process to a reasonable conclusion. I am advised that the following dates are not available: May 3, 10, 16, 17, and 20. Other than those dates, we will make ourselves available to meet with you at your convenience.

Respectfully,



E. Graham Baker, Jr.
/mp

c: James Christoffersen, General Counsel, HSDA
A. Douglas Lensgraf, D.C.
Lance Benedict, D.C.
Susan Steelman, Esq., Miller & Martin, PLLC

⁴ In fact, the more traditional MUA may now be performed only one time, and if repeated, the second procedure may be many days later.

GENERAL COUNSEL'S REPORT

May 22, 2013

B. Horizon Health & Rehab Center f/k/a United Regional Medical Center Nursing Home, Manchester (Coffee County), TN – CN0707-061A

Request for modification to adjust the location to 6.5 acres immediately adjacent to and contiguous to the approved site: This project was approved on December 12, 2007, by unanimous vote, for the relocation and replacement of the existing licensed nursing home facility, then known as United Regional Medical Center Nursing Home, and the addition of thirty (30) new Medicare certified nursing home beds for a total of 102 nursing home beds. The Agency extended the expiration date for twenty-four (24) months on October 25, 2012 due to changes in the hospital's financial planning, drainage and natural gas line easement concerns on the site. The estimated project cost is \$20,849.00.

BAKER DONELSON
BEARMAN, CALDWELL & BERKOWITZ, PC

2013 MAR 28 PM 1 55

WILLIAM WEST
Direct Dial: (615) 726-5561
Direct Fax: (615) 744-5561
E-Mail Address: bwest@bakerdonelson.com

BAKER DONELSON CENTER, SUITE 800
211 COMMERCE STREET
NASHVILLE, TENNESSEE 37201

MAILING ADDRESS:
POST OFFICE BOX 190613
NASHVILLE, TENNESSEE 37219

PHONE: 615.726.5600
FAX: 615.726.0464

March 28, 2013

www.bakerdonelson.com

Jim Christoffersen, Esq.
General Counsel
Tennessee Health Services and Development Agency
161 Rosa L. Parks Boulevard
Frost Building
Nashville, TN 37243

Via Hand Delivery

Re: Request for approval of slightly altered site for CON CN0707-061AE, Horizon Health & Rehab Center, Manchester, Coffee County, Tennessee

Dear Jim:

As you know, this firm represents Health Services Manchester, LLC, the owner of the nursing home now known as Horizon Health & Rehab Center in Manchester, Tennessee.

On October 25, 2012, the HSDA approved the request of Horizon Health & Rehab Center to extend the expiration date for its certificate of need, number CN0707-061AE, for 24 months and to change its name to Horizon Health & Rehab Center.

Because of the issues in developing the original site for CN0707-061AE in Manchester, due to changes in the hospital's financing planning, drainage and natural gas line easement concerns arising as to the originally proposed site for this nursing home, Health Services Manchester, LLC hereby requests that the HSDA permit it to alter slightly the location of the proposed new site for this nursing home covered by CN0707-061AE, moving the location to a piece of property contiguous to and adjacent to the originally proposed site.

We have attached an aerial photograph, Exhibit A, which shows the originally proposed site as the "McArthur 23 site". Health Services Manchester, LLC has acquired an option for a 6.5 acre site immediately adjacent to and contiguous to the McArthur 23 site. This site is denominated as the "Horizon site" on Exhibit A. Because the "Horizon site" as shown on Exhibit A is contiguous to the original site, and has road frontage on the same highway (Highway 55) as the original site, Health Services Manchester, LLC respectfully requests that the HSDA permit it to relocate Horizon Health & Rehab Center to the "Horizon site" as shown on Exhibit A without the necessity of filing a new CON application for relocation. We respectfully request that this matter be placed on the agenda for the HSDA's April 24, 2013 meeting, to be taken under the General Counsel's report of said meeting.

N WHW 955171 v1

2913112-000036 03/28/2013 ALABAMA • FLORIDA • GEORGIA • LOUISIANA • MISSISSIPPI • TENNESSEE • TEXAS • WASHINGTON, D.C.

Jim Christoffersen, Esq.
March 28, 2013
Page 2

Representatives of Health Services Manchester, LLC will be present at the HSDA meeting on April 24, 2013 to answer any questions you, HSDA staff or members of the HSDA may have about this request. As always, if you have any questions or need additional information before that time, please do not hesitate to contact me. Thank you for your cooperation.

Sincerely,

BAKER, DONELSON, BEARMAN,
CALDWELL & BERKOWITZ, PC

A handwritten signature in dark ink, appearing to read "William West", written over the printed name.

William West

WHW/mhh
Enclosure

cc: Neal Acree
Tom Johnson



Exhibit A

© 2013 Google

Imagery Date: 10/30/2012 35°27'56.60" N 86°05'07.45" W elev: 1065 ft eye alt: 4

Google

BAKER DONELSON
BEARMAN, CALDWELL & BERKOWITZ, PC

WILLIAM WEST
Direct Dial: (615) 726-5561
Direct Fax: (615) 744-5561
E-Mail Address: bwest@bakerdonelson.com

2013 APR 17 11:08

BAKER DONELSON CENTER, SUITE 800
211 COMMERCE STREET
NASHVILLE, TENNESSEE 37201

MAILING ADDRESS:
POST OFFICE BOX 190613
NASHVILLE, TENNESSEE 37219

PHONE: 615.726.5600
FAX: 615.726.0464

www.bakerdonelson.com

April 17, 2013

Via Hand Delivery

Ms. Melanie Hill
Executive Director
Tennessee Health Services and Development Agency
161 Rosa L. Parks Boulevard
Frost Building
Nashville, TN 37243

Re: Change of Name and Extension for CON No. CN0707-061AM

Dear Melanie:

As you will recall, at the October 24, 2012 meeting of the HSDA, the Agency voted to approve the change of name for this certificate of need and also to extend the expiration date to December 18, 2014. The new name for the CON project will be Horizon Health & Rehab Center. The owner of Horizon Health & Rehab Center is Health Services Manchester, LLC. The original certificate of need, CN0707-061AM, is enclosed with this letter.

If you have any questions, please advise.

Sincerely,

BAKER, DONELSON, BEARMAN,
CALDWELL & BERKOWITZ, PC



William West

WHW/mhh
Enclosure

cc: Neal Acree

N WHW 957683 v1

STATE OF TENNESSEE
Health Services and Development Agency



Certificate of Need No. **CN0707-061AM** is hereby granted under the provisions of T.C.A. § 68-11-1601, *et seq.*, and rules and regulations issued thereunder by this Agency.

To: Coffee Medical Group, LLC
9003 Overlook Boulevard
Brentwood, TN 37027-5200

For: United Regional Medical Center Nursing Home

This Certificate is issued for: The relocation and replacement of the existing licensed nursing home facility from 1001 McArthur Drive. The proposed location contains approximately twenty-three (23) acres at the southeast corner of the intersection of McArthur Drive and Oak Drive, Manchester (Coffee County), TN.

* This Certificate is a replacement of the originally issued Certificate of Need pursuant to Agency Rule 0720-3-06(9). Extension of Expiration date changed due to dismissal of appeal.

On the premises located at: Unaddressed site at the corner of McArthur and Oak
Manchester (Coffee), TN 37355

For an estimated project cost of: \$9,286,849.00

The Expiration Date for this Certificate of Need is

December 18, 2012

or upon completion of the action for which the Certificate of Need was granted, whichever occurs first. After the expiration date, this Certificate of Need is null and void.

Date Approved: December 12, 2007


Chairman

Date Issued: January 26, 2011


Executive Director

GENERAL COUNSEL'S REPORT

May 22, 2013

A. Behavioral Healthcare Center at Memphis, Memphis (Shelby County), TN — CN0711-089A

Request for a twenty-four month extension of the expiration date from July 1, 2013 to July 1, 2015: A two (2) year extension, from July 1, 2011 to July 1, 2013 was unanimously approved by the Agency on April 27, 2011. This project was approved on May 28, 2008, by a vote of 4-2 [Aye: Morris, Atchley, Weaver, Jones; Nay: Lammert, Gaither], for the establishment of a sixteen (16) bed mental health hospital and the initiation of inpatient psychiatric services. The inpatient beds and services will be focused on the geriatric population, and all sixteen (16) beds will be designated as geriatric psychiatric beds. The estimated project cost is \$6,663,901.00.

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SunTrust Plaza
401 Commerce Street
Suite 800
Nashville, TN 37219
(615) 782-2200
(615) 782-2371 Fax
www.stites.com

Jerry W. Taylor
(615) 782-2228
(615) 742-0703 FAX
jerry.taylor@stites.com

March 27, 2013

Melanie M. Hill
Executive Director
Tennessee Health Services and Development Agency
Frost Building, 3rd Floor
161 Rosa L. Parks Boulevard
Nashville, TN 37243

RE: Behavioral Healthcare Center at Memphis
CN0711-089A

Dear Ms. Hill:

This is to request a 24 month extension of the expiration date of this certificate of need from July 1, 2013 to July 1, 2015. The Behavioral Healthcare Center at Memphis ("BHC-Memphis") is approved for the establishment of a 16 bed mental health hospital to focus on the geriatric (65 years+) population. It will be a newly constructed facility located in the Harbor View area of Memphis close to the banks of the Mississippi River. It will be adjacent to the recently opened Harbor View Nursing and Rehabilitation Center which is owned and operated by affiliates of BHC-Memphis. The services of these respective facilities will complement each other, providing a continuum of diverse care for seniors in the service area.

BHC-Memphis and its parent company, American Health Companies, Inc. ("AHC"), are committed to the implementation of this project and the operation of the facility. A combination of the economic downturn shortly after approval of the project, the uncertainties and challenges facing Medicare providers relative to health care reform, and perhaps at the time of this CON, a rather ambitious schedule for development of new and/or replacement facilities by AHC and its affiliates have resulted in unexpected delays in the BHC-Memphis project.

AHC and its affiliated companies have persevered through these challenges, and are pleased to have successfully completed five new and/or replacement facilities since the approval of the BHC-Memphis CON. The fifth of these projects, West Tennessee Transitional Care, is expected to receive final licensure approval around May 1, 2013. The AHC-affiliated facilities which have been completed since the approval of the BHC-Memphis CON are:

Melanie M. Hill
March 27, 2013
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<u>Completed Project</u>	<u>Licensure Date</u>	<u>Capital Investment</u>
Clarksville Manor CN0812-120A	October 8, 2009	\$13.7 million
BHC at Clarksville CN0803-021A	March 4, 2010	\$4.6 million
Harbor View (f/k/a Court Manor) CN0603-017A	July 15, 2010	\$10.9 million
BHC at Columbia CN0709-071A	January 26, 2011	\$4.0 million
West Tenn. Transitional Care CN1010-048A	May 1, 2013 (expected)	<u>\$10.7 million</u>
Total Fixed Asset Investment =		\$43.9 million

With these projects completed, AHC and its affiliates can now devote the necessary capital resources to BHC-Memphis. Initial architectural plans have already been completed and will be transmitted to the Department of Health for review and approval within the coming weeks. Construction should be completed within approximately 12 months of ground-breaking. Therefore, the owner believes a two year extension of time will be adequate, even taking into account unknown contingencies. Accordingly, a 24 month extension is respectfully requested. A check in the amount of \$13,326.31 representing the extension fee is filed herewith.

Thank you for your consideration of this request. Please let me know if you have any questions, or if additional information is needed.

Very truly yours,

STITES & HARBISON, PLLC


Jerry W. Taylor

STATE OF TENNESSEE
Health Services and Development Agency



Certificate of Need No. **CN0711-089AE** is hereby granted under the provisions of T.C.A. § 68-11-1601, *et seq.*, and rules and regulations issued thereunder by this Agency.

To: Behavioral Healthcare Center at Memphis, Inc.
PO Box 10, 52 W. Eighth Street
Parsons, TN 38363

For: Behavioral Healthcare Center at Memphis

This Certificate is issued for: The establishment of a sixteen (16) bed mental health hospital and the initiation of inpatient psychiatric services. The inpatient beds and services will be focused on the geriatric population, and all sixteen (16) beds will be designated as geriatric psychiatric beds. The facility will be licensed as a mental health hospital by the Tennessee Department of Mental Health and Developmental Disabilities.

* This Certificate is a replacement of the originally issued Certificate of Need pursuant to Agency Rule 0720-10-.06 Expiration, Revocation, and Modification of issued Certificates. Extension of Expiration date for twenty-four (24) months from July 1, 2011 to July 1, 2013 was granted at the April 27, 2011 Health Services and Development Agency meeting. This project was originally approved on May 28, 2008.

On the premises located at: unaddressed site at 2nd Avenue and Pear Avenue
Memphis (Shelby County), TN 38105

For an estimated project cost of: \$6,663,901.00

The Expiration Date for this Certificate of Need is

* July 1, 2013

or upon completion of the action for which the Certificate of Need was granted, whichever occurs first. After the expiration date, this Certificate of Need is null and void.

Date Approved: April 27, 2011


Chairman

Date Issued: May 22, 2011


Executive Director

GENERAL COUNSEL'S REPORT

May 22, 2013

C. West Tennessee Transitional Care, Jackson (Madison County), TN -- CN1010-048A

Request for a three (3) month extension of the expiration date from June 1, 2013 to September 1, 2013: A three (3) month extension from March 1, 2013 to June 1, 2013 was granted at the December 12, 2012 meeting. This project was approved unanimously on January 26, 2011 for a change of site for the construction of a replacement facility and the relocation of the nursing home as approved by CN0905-023A. The estimated project cost is \$24,279.00.

SunTrust Plaza
401 Commerce Street
Suite 800
Nashville, TN 37219
(615) 782-2200
(615) 782-2371 Fax
www.stites.com

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April 30, 2013

Melanie M. Hill
Executive Director
Tennessee Health Services and Development Agency
Frost Building, 3rd Floor
161 Rosa L. Parks Boulevard
Nashville, TN 37243

Jerry W. Taylor
(615) 782-2228
(615) 742-0703 FAX
jerry.taylor@stites.com

RE: West Tennessee Transitional Care
CN1010-048A

Dear Ms. Hill:

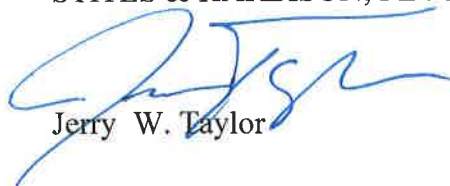
This is to request a 3 month extension of the above referenced certificate of need, from June 1, 2013 to September 1, 2013. The CON is for the replacement and relocation of West Tennessee Transitional Care ("WTTC") a skilled nursing facility which is currently licensed for 85 beds; the replacement facility will be licensed for 67 beds.

Construction of the replacement facility is virtually complete. The owner has notified the West Tennessee Regional Office of the need for both the Life Safety and Licensure surveys to be conducted during the first two weeks of May. A public Open House is scheduled for the new replacement facility for May 9. If everything goes as planned, the facility should be licensed prior to the June 1 expiration date. However, things don't always go as planned, and the owner cannot risk the expiration of the CON. For this reason, an extension is being requested. Of course if the need for the extension is obviated prior to the May 22 meeting, this request will be withdrawn. A check in the amount of \$3,034.89 representing the extension fee is being submitted herewith.

Please place this matter on the agenda for the May 22, 2013 meeting of the Health Services and Development Agency. Please let me know if you have any questions or if additional information is needed. Thank you for your assistance.

Very truly yours,

STITES & HARBISON, PLLC



Jerry W. Taylor



May 2, 2012

Joe Strawn
West Tennessee Transitional Care Facility
597 West Forrest Avenue
Jackson, TN 38301

RE: West Tennessee Transitional Care Facility

Dear Mr. Strawn:

The current status of construction of the West Tennessee Transitional Care facility is as follows:

Construction of the building is complete and inspections are in process.

If you need any additional information please let me know. Thanks

Sincerely

SouthLand Constructors, LLC

A handwritten signature in dark ink, appearing to read "J. Clonce".

Jeff Clonce
Project Manager
jclonce@southlandconstructors.com

STITES & HARBISON^{PLLC}

ATTORNEYS

2013 APR 18 AM 10 31
April 18, 2013

SunTrust Plaza
401 Commerce Street
Suite 800
Nashville, TN 37219
(615) 782-2200
(615) 782-2371 Fax
www.stites.com

Melanie M. Hill
Executive Director
Tennessee Health Services and Development Agency
Frost Building, 3rd Floor
161 Rosa L. Parks Boulevard
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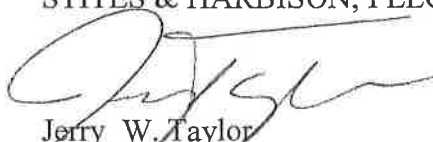
RE: West Tennessee Transitional Care
CN1010-048AE

Dear Ms. Hill:

I am submitting herewith the original certificate of need document for the above referenced matter, for the purpose of having it revised to reflect the new expiration date of June 1, 2013. The extension was approved by the Agency at the December 12, 2012 meeting. Please let me know if you have any questions of need anything further. Thank you for your assistance.

Very truly yours,

STITES & HARBISON, PLLC



Jerry W. Taylor

18638N:130434:990981:1:NASHVILLE

Alexandria, VA Atlanta, GA Frankfort, KY Franklin, TN Jeffersonville, IN Lexington, KY Louisville, KY Nashville, TN

STATE OF TENNESSEE
Health Services and Development Agency



Certificate of Need No. **CN1010-048A** is hereby granted under the provisions of T.C.A. § 68-11-1601, *et seq.*, and rules and regulations issued thereunder by this Agency.

To: West Tennessee Transitional Care, Inc.
52 West Eighth Street
Parsons, TN 38363

For: West Tennessee Transitional Care

This Certificate is issued for: A change of site for the construction of a replacement facility and the relocation of the nursing home as approved by CN0905-023A. West Tennessee Transitional Care (W TTC) is currently located at 670 Skyline Drive, Jackson (Madison County), TN. CN0905-023A approved a replacement facility and relocation to an unaddressed site in Madison County bordered as follows: on the west by U.S. Hwy. 45 By-Pass; on the north by Northstar Park subdivision; on the east by Murray Guard Road. The proposed new site is located at 617 West Forest Avenue, Jackson (Madison County), TN. The replacement facility will have sixty-seven (67) licensed skilled nursing beds. There will be no change in the types of health care services provided.

On the premises located at: 617 West Forest Avenue
Jackson (Madison), TN 38301

For an estimated project cost of: \$10,814,999.00

The Expiration Date for this Certificate of Need is

March 1, 2013

or upon completion of the action for which the Certificate of Need was granted, whichever occurs first. After the expiration date, this Certificate of Need is null and void.

Date Approved: January 26, 2011


Chairman

Date Issued: February 23, 2011


Executive Director

GENERAL COUNSEL'S REPORT

May 22, 2013

C. West Tennessee Transitional Care, Jackson (Madison County), TN -- CN1010-048A

Request for a three (3) month extension of the expiration date from June 1, 2013 to September 1, 2013: A three (3) month extension from March 1, 2013 to June 1, 2013 was granted at the December 12, 2012 meeting. This project was approved unanimously on January 26, 2011 for a change of site for the construction of a replacement facility and the relocation of the nursing home as approved by CN0905-023A. The estimated project cost is \$24,279.00.

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2013 APR 30 PM 12 11

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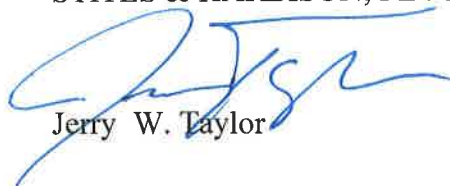
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18638N:130633:992544:2:NASHVILLE



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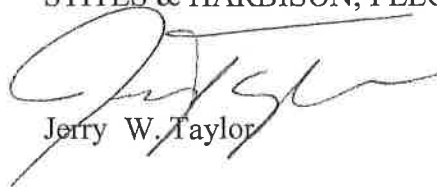
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STATE OF TENNESSEE
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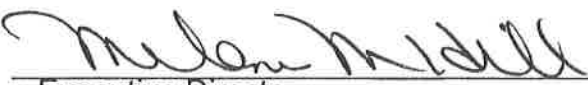
March 1, 2013

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Date Approved: January 26, 2011


Chairman

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Executive Director

GENERAL COUNSEL'S REPORT

May 22, 2013

- A. Behavioral Healthcare Center at Memphis, Memphis (Shelby County), TN — CN0711-089A**
Request for a twenty-four month extension of the expiration date from July 1, 2013 to July 1, 2015: This project was approved on May 28, 2008, by a vote of 4-2, for the establishment of a sixteen (16) bed mental health hospital and the initiation of inpatient psychiatric services. The inpatient beds and services will be focused on the geriatric population, and all sixteen (16) beds will be designated as geriatric psychiatric beds. The estimated project cost is \$6,663,901.00.
- B. Horizon Health & Rehab Center f/k/a United Regional Medical Center Nursing Home, Manchester (Coffee County), TN — CN0707-061A**
Request for modification to adjust the location to 6.5 acres immediately adjacent to and contiguous to the approved site: This project was approved on December 12, 2007, by unanimous vote, for the relocation and replacement of the existing licensed nursing home facility and the addition of thirty (30) new Medicare certified nursing home beds for a total of 102 nursing home beds. The Agency extended the expiration date for twenty-four (24) months on October 25, 2012 due to changes in the hospital's financial planning, drainage and natural gas line easement concerns on the site. The estimated project cost is \$20,849.00.
- C. West Tennessee Transitional Care, Jackson (Madison County), TN — CN1010-048A**
Request for a three (3) month extension of the expiration date from June 1, 2013 to September 1, 2013: A three (3) month extension from March 1, 2013 to June 1, 2013 was granted at the December 12, 2012 meeting. This project was approved unanimously on January 26, 2011 for a change of site for the construction of a replacement facility and the relocation of the nursing home as approved by CN0905-023A. The estimated project cost is \$24,279.00.
- D. Agency Determination**
- a. MUA Medical Clinic of Knoxville, LLC, CN0811-112A and MUA of Middle Tennessee, LLC, CN1009-054**
Agency staff's request for Agency Determination as to whether Manipulation Under Joint Anesthesia (MUJA) is permissible under a CON limited to the provision of Manipulation Under Anesthesia (MUA) services, which are manual surgical procedures with no operative surgical procedures to be performed.
DEFERRED TO THE AUGUST MEETING